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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

EMERSON WEBB; and all others  
similarly situated,

Plaintiff,

vs.

UNIFUND CCR Partners, a limited  
Liability Company; SUTTELL &  
ASSOCIATES P.S., a Washington  
Professional Service Corporation; and  
ISAAC HAMMER and JANE DOE  
HAMMER, husband and wife; and KIM  
KENNEY,

Defendants.

Case No.: CV-09-81-RHW

COMPLAINT

[FDCPA-CLASS ACTION]

Plaintiff Emerson Webb, suing on his behalf and the behalf of all others  
similarly situated, by and through their attorney, Michael D. Kinkley of Michael D.  
Kinkley, P.S., alleges the following:

I. COMPLAINT – CLASS ACTION

1.1. This is an action for damages and remedies against defendants, Unifund  
CCR Partners, a limited Liability Company (“Unifund”), Suttell &

1 Associates, P.S., a Washington Professional Service Corporation; Isaac  
2 Hammer and Jane Doe Hammer, husband and wife; and Kim Kenney  
3 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692, et  
4 seq., (“FDCPA”); for damages and remedies pursuant to the Washington  
5 State Consumer Protection Act (RCW 19.86 et seq.) (“WCPA”); for  
6 damages and remedies for unlawful debt collection practices; for  
7 damages and remedies pursuant to the State of Washington Collection  
8 Agency Act, RCW 19.16, (“WCAA”).

## 11 II. JURISDICTION & VENUE

- 12
- 13 2.1. Jurisdiction of this Court arises under 15 U.S.C. §1692k (d), 28 U.S.C.  
14 §1337, and 28 U.S.C. §1331. Supplemental jurisdiction exists for state  
15 law claims pursuant to 28 U.S.C. §1367. Declaratory relief is available  
16 pursuant to 28 U.S.C. §2201 and §2202.
- 17
- 18 2.2. Venue is proper in this District under 28 U.S.C. §1391(b) because the  
19 Defendants conduct affairs and transact business in this District, and a  
20 significant portion of the unlawful acts giving rise to this Complaint  
21 occurred in this District, and the plaintiffs reside within the territorial  
22 jurisdiction of the court.
- 23
- 24
- 25

III. FEDERAL QUESTION SUBJECT MATTER JURISDICTION

3.1. Plaintiff Emerson Webb is a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a(3). He is an individual.

3.2. Defendant Unifund, was attempting to collect a “debt” as defined by FDCPA, 15 U.S.C. §1692a(5).

3.3. Defendant Suttell & Associates, P.S., was attempting to collect a “debt” as defined by FDCPA, 15 U.S.C. §1692a(5).

3.4. Defendant Isaac Hammer was attempting to collect a “debt” as defined by FDCPA, 15 U.S.C. § 1692a(5).

3.5. Defendant Kim Kenney was attempting to collect a “debt” as defined by FDCPA, 15 U.S.C. § 1692a(5).

3.6. The alleged debt was an alleged obligation of plaintiff to pay money arising out of a transaction primarily for personal, family, or household purposes.

3.7. All credit card charges defendants alleged that Plaintiff Webb owed were for personal purposes.

3.8. Defendant Unifund is a “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6).

3.9. Defendant Unifund uses interstate commerce or the mails for the collection of debts.

1 3.10. The principle purpose of Unifund's business is the collection of debts.

2 3.11. Defendant Unifund regularly collects or attempts to collect, directly or  
3 indirectly, debts owed or due or asserted to be owed or due another using  
4 the telephone and mail.  
5

6 3.12. Defendant Suttell & Associates, P.S., is a "debt collector" as defined by  
7 the FDCPA, 15 U.S.C. § 1692a(6).  
8

9 3.13. Defendant Suttell & Associates, P.S., regularly collects or attempts to  
10 collect, directly or indirectly, debts owed or due or asserted to be owed or  
11 due another using the telephone and mail.  
12

13 3.14. Defendant Isaac Hammer is a "debt collector" as defined by the FDCPA,  
14 15 U.S.C. § 1692a(6).  
15

16 3.15. Defendant Isaac Hammer regularly collects or attempts to collect,  
17 directly or indirectly, debts owed or due or asserted to be owed or due  
18 another using the telephone and mail.

19 3.16. Defendant Kim Kenney is a "debt collector" as defined by the FDCPA,  
20 15 U.S.C. § 1692a(6).  
21

22 3.17. Defendant Kim Kenney regularly collects or attempts to collect, directly  
23 or indirectly, debts owed or due or asserted to be owed or due another  
24 using the telephone and mail.  
25

3.18. Unifund is a "collection agency" as defined by RCW 19.16.100(2).

1 3.19. Unifund is not properly licensed as required by Washington law.

2 IV. PARTIES

3  
4 4.1. Now, and at all relevant times, Plaintiff Emerson Webb was a resident of  
5 the State of Washington residing within the territorial jurisdiction area of  
6 the United States District Court for the Eastern District of Washington.

7  
8 4.2. Defendant Unifund is a Limited Liability company, engaged in the  
9 business of collecting debts within the State of Washington; which debts  
10 were originally owed to another.

11  
12 4.3. The principle purpose of Unifund's business activities within the  
13 jurisdiction of this court is the collection of debts originally owed another  
14 using the mail and telephone, and defendant regularly attempts to collect  
15 debts alleged to be due another or originally owed to another. Defendant  
16 Unifund is doing business as a "debt collector" in the Eastern District of  
17 Washington of the United States District Court as defined by the  
18 FDCPA, 15 U.S.C. § 1692a(6).

19  
20 4.4. Defendants Suttell and Associates P.S., and Isaac Hammer are the  
21 attorneys for Defendant Unifund.

22  
23 4.5. Defendants Suttell & Associates, P.S., and Isaac Hammer, approved the  
24 form of the state court complaint requesting attorney fees filed against  
25

1 Plaintiff Webb and the collection system using that complaint and/or the  
2 Motion and Affidavit for Default Judgment.

3  
4 4.6. Isaac Hammer is an employee of Suttell & Associates, P.S. All acts done  
5 by Isaac Hammer were done on his behalf, on behalf of the marital  
6 community, on behalf of Suttell & Associates, P.S., and on behalf of  
7 Unifund.

8  
9 4.7. Kim Kenney is an employee of Unifund. All acts done by Kim Kenney  
10 were done on her behalf, and on behalf of Unifund.

11 4.8. All acts done by Suttell & Associates, P.S., were done on its own behalf,  
12 and on behalf of Unifund.  
13

14 V. FACTS

15 5.1. On September 17, 2008, Defendant Unifund, Suttell & Associates, P.S.,  
16 and Isaac Hammer filed a Complaint against Emerson Webb ("Webb  
17 Complaint"), in Washington State Superior Court, Spokane County, Case  
18 No.: 08-204313-9 ("Webb Collection Lawsuit").  
19

20 5.2. The Webb Collection Lawsuit was an attempt to collect an alleged credit  
21 card debt.  
22

23 5.3. The Webb Complaint alleged that Unifund is the assignee of Palisades  
24 and the proper part to bring this action.  
25

5.4. The Webb Complaint prays for judgment in the amount of \$8,666.80.

1 5.5. The Webb Complaint claims the amount prayed for was based on an  
2 obligation of Plaintiff Webb bearing the original account number  
3 5396820025928765.  
4

5 5.6. On September 17, 2008, Defendant Unifund filed a Motion and  
6 Declaration for Default Judgment in the Webb Collection Lawsuit  
7 (“Webb Default Judgment Motion and Declaration”). EX 1.  
8

9 5.7. The Webb Default Judgment Motion and Declaration states at ¶ 6,  
10 “There is justly due and owing to plaintiff in the above referenced action  
11 a sum certain as set forth in the Complaint in the amount of \$8,666.80,  
12 together with interest accruing at the rate of 12.0000% until the date of  
13 judgment.”  
14

15 5.8. Plaintiff Webb did not owe \$8,8666.80.  
16

17 5.9. The principle amount demanded in the Webb Complaint is not the same  
18 principle amount sought in the Motion for Default Judgment.

19 5.10. The Webb Default Judgment Motion and Declaration states at ¶ 7,  
20 “Plaintiff is entitled to its costs and attorney’s fees pursuant to contract  
21 and/or statute. Declarant states that the sum of \$650.00 is a reasonable  
22 sum as and for plaintiff’s attorney’s fees in the even judgment is rendered  
23 on this Motion.”  
24  
25

1 5.11. The Webb Default Judgment Motion requests a sum certain as set forth  
2 in the complaint of \$4,404.65.

3  
4 5.12. Plaintiff Webb did not owe \$4,404.65.

5 5.13. The amount set forth in the complaint was not 4,404.65.

6 5.14. The sum of \$650.00 is not a reasonable attorney fee.

7  
8 5.15. Defendants, in the Webb Collection Lawsuit did not comply with  
9 Washington law in requesting the \$650.00 attorney fee.

10 5.16. Defendant Suttell and Associates regularly requests a flat unlawful  
11 attorney's fees of \$650.00.

12  
13 5.17. The \$650.00 attorney fee is a part of defendant Suttell & Associates form  
14 Default Judgment package.

15 5.18. Isaac Hammer signed the Motion and Declaration for Default Judgment  
16 in the Webb Collection Lawsuit under the following oath, "Declarant  
17 states that the foregoing statements are true and correct to the best of  
18 his/her knowledge and belief and are made subject to the penalties of  
19 perjury under the laws of the State of Washington."  
20

21  
22 5.19. Attached to the Motion and Declaration for Default Judgment is a  
23 document titled, "Affidavit of Indebtedness" which is signed by Kim  
24 Kenney, Media Supervisor of Unifund CCR Partners."  
25



1 5.20. In the “Affidavit of Indebtedness”, Kim Kenny swears under oath,  
2 “There is due and payable from EMERSON J WEBB JR, Account  
3 5396820025928765, the amount of \$12,813.99”  
4

5 5.21. Plaintiff Webb did not owe \$12,813.99.

6 5.22. In the “Affidavit of Indebtedness”, Kim Kenny swears under oath, “This  
7 account was issued under the name of CITIBANK SOUTH DAKOTA  
8 NA and acquired from Citibank (South Dakota) NA.”  
9

10 5.23. Unifund is not the original creditor of the alleged debt which is the  
11 subject of the Webb Collection Lawsuit.  
12

13 5.24. Kim Kenney is an employee of Unifund.

14 5.25. Defendant Isaac Hammer was aware or should have been aware that Kim  
15 Kenney is an employee of Unifund.  
16

17 5.26. Kim Kenney is not an employee of Citibank South Dakota, N.A.

18 5.27. Isaac Hammer was aware or should have been aware that Kim Kenney is  
19 not an employee of Citibank South Dakota, N.A.  
20

21 5.28. Kim Kenney is not an employee of Citibank USA National Association.

22 5.29. Isaac Hammer was aware or should have been aware that Kim Kenney is  
23 not an employee of Citibank USA National Association.  
24  
25

1 5.30. Attached to the “Affidavit of Indebtedness” is a document which  
2 purports to be a statement from “AT&T Universal Card” (“AT&T  
3 Statement”).  
4

5 5.31. The AT&T Statement is demands payment of \$4,889.65 from Plaintiff  
6 Emerson Webb on account number 5396820025928765 by April 3, 2006.  
7

8 5.32. The amount of \$4,889.65 demanded by the AT&T Statement is different  
9 from \$12,813.99, the amount demanded in the sworn “Affidavit of  
10 Indebtedness” by Kim Kenny. .  
11

12 5.33. The amount of \$4,889.65 demanded by the AT&T Statement is different  
13 from \$8,666.80, the amount demanded in the Complaint.  
14

15 5.34. Plaintiff Webb did not owe \$4,889.65.  
16

17 5.35. Kim Kenney has no personal knowledge of any agreement between “the  
18 original creditor” and Emerson Webb.  
19

20 5.36. Isaac Hammer was aware or should have been aware that Kim Kenney  
21 has no personal knowledge of any agreement between “the original  
22 creditor” and Emerson Webb.  
23

24 5.37. The Webb Complaint was generated by computer software which merges  
25 data into a pre-made form Complaint.  
26

27 5.38. Defendant Isaac Hammer did not meaningfully review the Webb  
28 Complaint before signing and causing it to be filed.  
29

1 5.39. Attached to the Affidavit of Kim Kenney is a document titled  
2 “ASSIGNMENT” (“4<sup>th</sup> Assignment”) purporting to assign “certain  
3 receivables” from Palisades Collection, LLC to Unifund CCR Partners,  
4 effective March 28, 2003.  
5

6 5.40. The 4<sup>th</sup> Assignment does not reference account number  
7 5396820025928765, or any account purported to belong to Plaintiff  
8 Emerson Webb.  
9

10 5.41. Account number 5396820025928765 did not exist on May 28, 2003, the  
11 date the 4<sup>th</sup> Assignment became effective.  
12

13 5.42. Attached to the Affidavit of Kim Kenney is a document titled  
14 “ASSIGNMENT” (“3<sup>rd</sup> Assignment”) purporting to assign “certain  
15 receivables” from Cliff’s Portfolio Acquisition I, LLC to Palisades  
16 Collection, LLC, effective May 28, 2003.  
17

18 5.43. The 3<sup>rd</sup> Assignment does not reference account number  
19 5396820025928765, or any account purported to belong to Plaintiff  
20 Emerson Webb.  
21

22 5.44. Account number 5396820025928765 did not exist on May 28, 2003, the  
23 date the 4<sup>th</sup> Assignment became effective.  
24

25 5.45. Kim Kenny is not an employee of Cliff’s Portfolio Acquisition I, LLC.

1 5.46. Kim Kenny has no personal knowledge of the business practices of  
2 Cliff's Portfolio Acquisition I, LLC.

3  
4 5.47. Kim Kenny is not an employee of Palisades Collection, LLC.

5 5.48. Kim Kenny has no personal knowledge of the business practices of  
6 Palisades Collection, LLC.

7  
8 5.49. The Declaration of Kim Kenny is false in that she swears, under oath, to  
9 have personal knowledge with respect to the 3<sup>rd</sup> assignment.

10 5.50. Attached to the Affidavit of Kim Kenney is a document titled "BILL OF  
11 SALE" ("2<sup>nd</sup> Assignment") purporting to assign "Cliff's Subpool as  
12 defined in the Agreement" from Unifund Portfolio A, LLC, an Ohio  
13 limited liability company to Cliff's Portfolio Acquisition I, LLC,  
14 effective August 30, 2007.

15  
16 5.51. The 2<sup>nd</sup> Assignment does not reference account number  
17 5396820025928765, or any account purported to belong to Plaintiff  
18 Emerson Webb.

19  
20 5.52. Kim Kenney alleged in the Affidavit of Indebtedness she is an employee  
21 of Unifund CCR Partners.

22  
23 5.53. The 2<sup>nd</sup> Assignment postdates the subsequent 3<sup>rd</sup> and 4<sup>th</sup> assignments.

24 5.54. Kim Kenny is not an employee of Unifund Portfolio A, LLC, an Ohio  
25 limited liability company.

1 5.55. Kim Kenny has no personal knowledge of the business practices of  
2 Unifund Portfolio A, LLC, an Ohio limited liability company.

3  
4 5.56. The Declaration of Kim Kenny is false in that she swears, under oath, to  
5 have personal knowledge with respect to the 2<sup>nd</sup> assignment.

6 5.57. Attached to the Affidavit of Kim Kenney is a document titled "BILL OF  
7 SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT" ("1<sup>st</sup>  
8 Assignment") purporting to assign "Accounts described in Section 1.2 of  
9 the Agreement" from Citibank (South Dakota), N.A. to Unifund Portfolio  
10 A, LLC, an Ohio limited liability company, effective August 29, 2007.

11  
12 5.58. The 1<sup>st</sup> Assignment does not reference account number  
13 5396820025928765, or any account purported to belong to Plaintiff  
14 Emerson Webb.

15  
16 5.59. The 1<sup>st</sup> Assignment postdates the subsequent 3<sup>rd</sup> and 4<sup>th</sup> assignments.

17  
18 5.60. Kim Kenny is not an employee of Citibank (South Dakota), N.A.

19 5.61. Kim Kenny has no personal knowledge of the business practices of  
20 Citibank (South Dakota), N.A.

21  
22 5.62. The Declaration of Kim Kenny is false in that she swears, under oath, to  
23 have personal knowledge with respect to the 1<sup>st</sup> assignment.

24 5.63. Attached to the Declaration of Kim Kenny is a document titled  
25 "Cardmember Agreement".

1 5.64. The “Cardmember Agreement” is a document alleged to be an agreement  
2 between Plaintiff Emerson Webb and Universal Bank, N.A. for use of an  
3 AT&T Universal Card.  
4

5 5.65. Kim Kenny is not an employee of Universal Bank, N.A.

6 5.66. Kim Kenny has no personal knowledge of the business practices of  
7 Universal Bank, N.A.  
8

9 5.67. The Declaration of Kim Kenny is false in that she swears, under oath, to  
10 have personal knowledge with respect to the Universal Bank, N.A.

11 5.68. On September 30, 2008, an Order of Default Judgment was entered in the  
12 Webb Collection Lawsuit (“Webb Default Judgment”).  
13

#### 14 VI. DEFENDANTS PRACTICES

15 6.1 Defendants Unifund use computer technology to collect or attempt to  
16 collect debts.  
17

18 6.2 Defendants Suttell & Associates P.S., use computer technology to collect  
19 or attempt to collect debts.  
20

21 6.3 Defendants Unifund use a computer program or database to organize,  
22 and sort by each debtor, information about a debtor and about any debts  
23 the debtor is claimed to owe.  
24  
25

1 6.4 Defendants Suttell & Associates P.S., use a computer program or  
2 database to organize, and sort by each debtor, information about a debtor  
3 and about any debts the debtor is claimed to owe.  
4

5 6.5 Defendants Unifund collected or attempted to collect debts in excess of  
6 the amount owed using false affidavits for default and or summary  
7 judgment in state court.  
8

9 6.6 Defendants Suttell & Associates P.S., collected or attempted to collect  
10 debts in excess of the amount owed using false affidavits for default and  
11 or summary judgment in state court.  
12

13 6.7 Defendants Unifund has standardized procedures and used standardized  
14 forms to collect debts.

15 6.8 Defendants Suttell & Associates P.S., has standardized procedures and  
16 used standardized forms to collect debts.  
17

18 6.9 The request for attorney fees in the Webb Complaint was created using a  
19 standardized form or template.  
20

21 6.10 The template which was used to create the request for attorney fees in the  
22 Webb Complaint is part of the computer program or database used by  
23 Unifund and Suttell & Associates P.S., as a collection system.

24 6.11 The Webb Motion and Affidavit for Default Judgment was created using  
25 a standardized form or template.

1 6.12 The template which was used to create the Webb Motion and Affidavit  
2 for Default Judgment is part of the computer program or database used  
3 by Suttell & Associates P.S., as a collection system.  
4

5 6.13 The Webb Motion and Affidavit for Default Judgment was created by  
6 merging data information from the collection database into the  
7 standardized template.  
8

9 6.14 During 2005, Defendants Unifund, Suttell & Associates P.S., Isaac  
10 Hammer, sued or threatened to sue for an unlawful \$650 attorney fee  
11 more than 200 debtors in the State of Washington.  
12

13 6.15 During 2006, Defendants Unifund, Suttell & Associates P.S., Isaac  
14 Hammer, sued or threatened to sue for an unlawful \$650 attorney fee  
15 more than 200 debtors in the State of Washington.  
16

17 6.16 During 2007, Defendants Unifund, Suttell & Associates P.S., Isaac  
18 Hammer, sued or threatened to sue for an unlawful \$650 attorney fee  
19 more than 200 debtors in the State of Washington.  
20

21 6.17 During 2008, Defendants Unifund, Suttell & Associates P.S., Isaac  
22 Hammer, sued or threatened to sue for an unlawful \$650 attorney fee  
23 more than 200 debtors in the State of Washington.  
24  
25



1 6.18 During 2009, Defendants Unifund, Suttell & Associates P.S., Isaac  
2 Hammer, sued or threatened to sue for an unlawful \$650 attorney fee  
3 more than 200 debtors in the State of Washington.  
4

5 6.19 Unifund created the template Affidavits of Indebtedness signed by Kim  
6 Kenney.  
7

8 6.20 Unifund used Kim Kenney's Affidavit of Indebtedness more than 200  
9 times in 2005.

10 6.21 Unifund used Kim Kenney's Affidavit of Indebtedness more than 200  
11 times in 2006.  
12

13 6.22 Unifund used Kim Kenney's Affidavit of Indebtedness more than 200  
14 times in 2007.

15 6.23 Unifund used Kim Kenney's Affidavit of Indebtedness more than 200  
16 times in 2009.  
17

18 6.24 Unifund used Kim Kenney's Affidavit of Indebtedness more than 200  
19 times in 2005.  
20

21 6.25 Defendants Unifund, Suttell & Associates P.S., Isaac Hammer, make  
22 other collection efforts following the filing off the complaint against  
23 debtors in the State of Washington.  
24

## 25 VII. CLASS ALLEGATIONS

7.1 This action is brought on behalf of a class consisting of:

- 1 a) all persons in the state of Washington;
- 2 (i) who were served with a Complaint or against whom a motion
- 3 and affidavit for default was filed, which Complaint or motion
- 4 and affidavit for default sought an unreasonable attorney fee in
- 5 an amount not allowed by law; and/or
- 6 (ii) against whom defendants' attempted to collect an alleged debt
- 7 though the use of a false affidavit.
- 8
- 9
- 10 b) The class period for the FDCPA claims is one year prior to the date
- 11 of filing this action. The class period for the WCPA and WCAA is
- 12 the four-year period prior to the date of the filing of this Complaint.
- 13

14 7.2 The class is sufficiently numerous that joinder of all members is

15 impractical. This assertion is based upon the fact that defendant served

16 and filed hundreds of form Complaints and Affidavits/Declarations in

17 support of default judgment seeking an unreasonable flat rate attorney fee

18 against consumers in the State of Washington in an attempt to collect an

19 alleged debt. There are questions of law and fact common to the class,

20 which questions predominate over any questions peculiar to individual

21 class members. The principal issues include whether defendants violated

22 the FDCPA , WCAA, and the WCPA by:

23

24

25

- a) Attempting to collect an amount in excess of that allowed by law or contract;
- b) Using false representations or deceptive means to collect or attempt to collect a debt;
- c) Whether Washington law allows the addition of such fees and/or costs;
- d) Whether defendants were collecting in an amount in excess of that allowed by law.
- e) Whether defendants were seeking unreasonable attorney's fees.
- f) Whether defendants were seeking attorney's fees in an amount greater than that allowed by law.
- g) Whether defendants were presenting false and misleading Affidavits in an attempt to collect an alleged debt.

7.3 There are no individual questions, other than issues which can be determined by a ministerial inspection of defendants' records. There are no individual questions peculiar to individual class members.

7.4 Plaintiff has the same claims as the members of the class. All of the claims are based on the same factual and legal theories.

7.5 Plaintiff will fairly and adequately represent the interest of the class members. They are committed to vigorously litigating this matter.

1 Plaintiff has retained counsel experienced in prosecuting class actions  
2 and claims involving unlawful collection matters. Neither the Plaintiff  
3 nor their counsel have any interests which might cause them not to  
4 vigorously pursue this claim.  
5

6 7.6 A class action is a superior method for the fair and efficient adjudication  
7 of this controversy.  
8

9 7.7 Class wide damages are essential to induce defendants to comply with  
10 the law.  
11

12 7.8 The interest of the class members in individually controlling the  
13 presentation of separate claims against the defendants is small because  
14 the maximum statutory damages in an individual FDCPA action are  
15 \$1000.00.  
16

17 7.9 Certification of a class pursuant to Rule 23(b)(3) of the Federal Rules of  
18 Civil Procedure is appropriate. A class action is the only appropriate  
19 means of resolving this controversy because the class members are not  
20 aware of their rights. In the absence of a class action, a failure of justice  
21 will result.  
22

23 7.10 Certification of a class pursuant to Rule 23(b)(2) of the Federal Rules of  
24 Civil Procedure is also appropriate. Defendants have acted on grounds  
25

1 generally applicable to the class, thereby making appropriate declaratory  
2 relief with respect to the class as a whole.

3  
4 VIII. VIOLATION OF THE FAIR DEBT  
5 COLLECTION PRACTICES ACT

6 8.1. The debt collector Defendants, through their own acts, by and through  
7 their agents and employees, and their policies and procedures, have  
8 violated the FDCPA which has caused damage to Plaintiffs.

9 8.2. The Defendants falsely represented the character, amount, and/or legal  
10 status of the alleged debt, violating 15 USC § 1692e, 15 USC §  
11 1692e(2)(A), and other provisions of the FDCPA.

12 8.3. The debt collector defendants made misleading and deceptive statements  
13 in the collection of a debt in violation of 15 USC § 1692e.  
14

15 8.4. Defendants have used unfair or unconscionable means to collect or  
16 attempt to collect a debt in violation of 15 USC § 1692f including but not  
17 limited to 15 USC § 1692f (1).  
18

19 8.5. Defendants have collected or attempted to collect collection charges,  
20 interest and attorney fees in excess of the collection charges, interest and  
21 attorney fees allowed by law, in violation of 15 USC § 1692f, 15 USC §  
22 1692f(1), and other provisions of the FDCPA.  
23  
24  
25

1 8.6. Defendants collected or attempted to collect amounts which were neither  
2 expressly authorized by an agreement, nor permitted by law, in violation  
3 of 15 USC § 1692f, 15 USC § 1692f(1), and other provisions of the  
4 FDCPA..  
5

6 8.7. The Defendants violation of the FDCPA has caused actual Damages to  
7 the Plaintiffs and members of the class.  
8

9 IX. VIOLATION OF THE WASHINGTON  
10 COLLECTION AGENCY ACT

11 9.1. Defendant Unifund is a “collection agency” as defined by RCW  
12 19.16.100(2).  
13

14 9.2. Defendant Unifund uses computer collection software to collect debts.

15 9.3. The policy, procedures, practices and computer collecting software used  
16 by Unifund result in the creation and mailing of certain writings and the  
17 creation of information to base a lawsuit in a certain order.  
18

19 9.4. The information and forms used by Defendant Unifund from September  
20 of 2003 to the – present were approved for use by Defendant Suttell &  
21 Associates P.S.  
22

23 9.5. Defendant Unifund and its defendant employees are in violation of RCW  
24 19.16.250(14), 19.16.250(15), 19.16.250(18), and other sections of RCW  
25 19.16. including but not limited to RCW 19.16.250.

1 9.6. Unifund is not properly licensed as a collection agency as required by the  
2 WCAA and the Washington State Department of Licensing.

3 9.7. Unifund is collecting debts without a license in violation of the WCAA.  
4

5 9.8. Unifund is filing lawsuits without properly being a valid Washington  
6 Corporation.

7 9.9. Unifund is filing lawsuits without properly being a Qualified Foreign  
8 Incorporation.  
9

10 9.10. A violation of the Washington Collection Agency Act is a per se  
11 violation of the Washington State Consumer Protection Act (RCW  
12 19.16.440).  
13

14  
15 X. VIOLATION OF THE  
16 CONSUMER PROTECTION ACT

17 10.1. All Defendants violated the Washington Consumer Protection Act  
18 (“WCPA”).  
19

20 10.2. The WCPA requires that all collection agents and debt collectors abstain  
21 from unfair or deceptive practices or acts and unfair methods of  
22 competition.  
23  
24  
25

1 10.3. A Violation of the Washington State Collection Agency Act is a per se  
2 violation of the Washington State Consumer Protection Act. (RCW  
3 19.16.440).  
4

5 10.4. Any violation of the Washington State Collection Agency Act (WCAA)  
6 prohibited practices section, RCW 19.16.250 or licensing sections is an  
7 unfair act or practice and/or an unfair method of competition in the  
8 conduct of trade or commerce.  
9

10 10.5. Unifund's violation of the WCAA are a per se violation of the WCPA.

11 10.6. Any violation of the Washington State Collection Agency Act (WCAA)  
12 prohibited practices section, RCW 19.16.250 or licensing sections affects  
13 the public interest in violation of the Washington State Consumer  
14 Protection Act. (RCW 19.16.440).  
15

16 10.7. Defendants Unifund, Suttell & Associates P.S., Isaac Hammer, and Kim  
17 Kenney, personally and/or by and through their agents and employees,  
18 policies and procedures, have engaged in deceptive acts and practices,  
19 unfair acts and practices, and unfair methods of competition that have  
20 caused injury to the plaintiff.  
21

22 10.8. Defendants Unifund, Suttell & Associates P.S., Isaac Hammer, and Kim  
23 Kenney have engaged in unfair and deceptive acts and practices in  
24 attempting to collect an alleged debt from the plaintiff.  
25



1 10.9. Defendants Unifund, Suttell & Associates P.S., Isaac Hammer, and Kim  
2 Kenney are each in the business of debt collection in trade or commerce.

3  
4 10.10. Unlawful and Unfair Debt Collections is against public interest.

5 10.11. The defendant's actions were the direct cause of injury to plaintiff's  
6 property.

7  
8 10.12. The violations have harmed and unless enjoined will continue to harm  
9 the public interest by causing Plaintiffs and other similarly situated to pay  
10 collection charges that are unfair deceptive, unlawful, and an unfair  
11 method of competition.

12  
13 10.13. Defendant Unifund has violated the WCAA including but not limited to  
14 the prohibited practices section (RCW 19.16.250).

15 10.14. Defendant Unifund has violated the WCAA including but not limited to  
16 failing to obtain and maintain a license as required by RCW 19.16.110.

17  
18 10.15. Defendant Unifund has violated the Washington Administrative Code  
19 governing the actions of collection agencies.

20  
21 10.16. The business of collection agencies, as well as all acts and practices of  
22 collection agencies, debt collectors, are subject to the Consumer  
23 Protection Act, RCW 19.86 and subsequent sections.  
24  
25

1 10.17.The Consumer Protection Act of the State of Washington requires that all  
2 collection agents, debt collectors, abstain from unfair or deceptive  
3 practices or acts and unfair methods of competition.  
4

5 10.18.Defendants Unifund, Suttell & Associates P.S., Isaac Hammer, and Kim  
6 Kenney, personally and/or by and through their agents and employees,  
7 policies and procedures, have engaged in deceptive acts and practices,  
8 unfair acts and practices, and unfair methods of competition that have  
9 caused injury to the plaintiffs.  
10

11 10.19.Defendants Unifund, Suttell & Associates P.S., Isaac Hammer, and Kim  
12 Kenney have engaged in unfair and deceptive acts and practices in  
13 attempting to collect an alleged debt from the plaintiff.  
14

15 10.20.Defendants Unifund, Suttell & Associates P.S., Isaac Hammer, and Kim  
16 Kenney is in the business of debt collection in trade or commerce.  
17

18 10.21.Unlawful and Unfair Debt Collections is against public interest.

19 10.22.Defendants Unifund, Suttell & Associates P.S., Isaac Hammer, and Kim  
20 Kenney actions were the direct cause of injury to plaintiff's property.  
21

22 10.23.The violations have harmed and unless enjoined will continue to harm  
23 the public interest by causing Plaintiffs and other similarly situated to pay  
24 collection charges that are unfair deceptive, unlawful, and an unfair  
25 method of competition.

1 10.24. Defendant Suttell & Associates is a for profit corporation.

2 10.25. The entrepreneurial acts and practices of an attorney are subject to the  
3 Washington Consumer Protection Act, RCW 19.16 and subsequent  
4 sections.  
5

6 10.26. The Washington Consumer Protection Act requires that all attorney's  
7 engaging in the entrepreneurial acts and practices abstain from unfair or  
8 deceptive practices or and unfair methods of competition.  
9

10 10.27. Defendants Unifund, Suttell & Associates P.S., Isaac Hammer, and Kim  
11 Kenney use unfair and deceptive practices to create unfair and deceptive  
12 charges as legal fees, to collect unfair and deceptive fees, to bill unfair  
13 and deceptive fees, to determine unfair and deceptive fees.  
14

15 10.28. Defendants Unifund, Suttell & Associates P.S., Isaac Hammer, and Kim  
16 Kenney use unfair and deceptive acts and practices to obtain and retain  
17 clients.  
18

19 10.29. The violations of the WCPA against L Defendants Unifund, Suttell &  
20 Associates P.S., Isaac Hammer, and Kim Kenney are based on  
21 entrepreneurial aspects of the practice of law.  
22

23 XI. DEMAND

24 WHEREFORE, plaintiff demands judgment as follows:  
25

11.1. Actual damages;

1 11.2. Statutory damages pursuant to the FDCPA, 15 U.S.C. § 1692k(a)(2).

2 11.3. Costs and reasonable attorney's fees pursuant to the FDCPA, 15 U.S.C.  
3 §1692k(a)(3);  
4

5 11.4. Costs and reasonable attorney's fees pursuant to the Washington  
6 Consumer Protection Act, RCW 19.86;  
7

8 11.5. Treble damages pursuant to the Washington Consumer Protection Act,  
9 RCW 19.86;

10 11.6. Declaratory Judgment that defendants' practices violate the Fair Debt  
11 Collection Practices Act and/or the Washington Consumer Protection  
12 Act; and/or the Washington Collection Agency Act.  
13

14 11.7. Disgorgement of all money collected by defendants from members of the  
15 class;  
16

17 11.8. Disgorgement pursuant to RCW 19.16.450 of all interest, service  
18 charges, attorneys' fees, collection costs, delinquency charge or any other  
19 fees or charges otherwise legally chargeable to the debtor on such claim,  
20 collected by defendants from members of the class;  
21

22 11.9. Injunction prohibiting defendant from attempting to collect collection  
23 fees, interest, attorney fees and other charges unless allowed by law.  
24

25 11.10. For such other and further relief as may be just and proper.

1 DATED this 13<sup>h</sup> day of March, 2009.

2  
3 *Michael D. Kinkley P.S.*

4 /s Michael D. Kinkley  
5 Michael D. Kinkley  
6 WSBA # 11624  
Attorney for Plaintiff